

In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. See 86 Ill. Adm. Code 130.1940 and 130.2075. (This is a GIL).

May 6, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated April 7, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

It was a pleasure talking to you this morning. Your assistance was greatly appreciated. The following information is being provided so that you can send me a General Information Letter with respect to my questions.

The facts are as follows:

(a) Client is in the business of installing and repairing fire sprinkler systems located in real property.

(b) The fire sprinkler systems are attached to the real property in several ways. First, the systems are attached with piping to the general water supply system of the building. Second, the systems are attached to the buildings' ceilings, either on or above the ceilings.

(c) The fire sprinkler systems are not intended to be removed and may even cause damage to the ceilings if they are removed. Holes are made in the ceilings where the sprinkler heads are located.

The questions are as follows:

(a) Is the installation of a fire sprinkler system a real property improvement or does the system retain its characteristic as tangible personal property? Does SOT or ROT apply?

(b) How are repairs to the fire sprinkler system treated? Does SOT or ROT apply?

If you need further information, please call me at ####. Again, your assistance in this matter is appreciated.

May 6, 1999

Please find enclosed copies of 86 Ill. Adm. Code 130.1940 and 130.2075 regarding the tax liabilities of contractors in Illinois. The term "construction contractors" includes general contractors, subcontractors, and specialized contractors such as landscape contractors. The term "contractor" means any person or persons who are engaged in the occupation of entering into and performing construction contracts for owners. In Illinois, construction contractors are deemed end users of tangible personal property purchased for incorporation into real property. As end users of such tangible personal property, contractors incur Use Tax liability for such purchases based upon the cost price of the tangible personal property. Therefore, any tangible personal property that general contractors or subcontractors purchase that will be permanently affixed to or incorporated into real property in this State will be subject to Use Tax. If contractors did not pay the Use Tax liability to their suppliers, contractors must self-assess their Use Tax liability and pay it directly to the Department.

If general contractors did not purchase the tangible personal property, then the general contractors cannot be held liable for tax due on another entities' purchases. If subcontractors are utilized and are acting as construction contractors, the transaction between the general contractors and the subcontractors is not a taxable transaction. The subcontractors incur Use Tax liability on any tangible personal property that they purchase for incorporation into real estate. If, however, general contractors make purchases and then contract to have subcontractors do the installation, the general contractors incur Use Tax liability because they are making the purchases of such tangible personal property.

Please note that construction contractors incur Retailers' Occupation Tax liability when they engage in selling any kind of tangible personal property to purchasers without permanently affixing the tangible personal property to real estate. See 86 Ill. Adm. Code 130.1940(b)(1). Construction contractors can purchase such tangible personal property tax-free for resale by providing their suppliers with Certificates of Resale. See 86 Ill. Adm. Code 130.1405, enclosed. Their Illinois suppliers and suppliers who are "retailers maintaining a place of business in Illinois" (see discussion below), must retain certificates of resale in order to document the resale exemption.

Generally, when a person installs a fire sprinkler system in a building by attaching the system to water supply piping and by physically attaching the system either on or above the building's ceiling, the person would be a construction contractor. As a construction contractor, the person will owe Use Tax for his purchases based upon the cost price of the tangible personal property.

When contractors perform repair work on permanently affixed items, the Department considers them to be construction contractors and as such, they incur Use Tax and local Retailers' Occupation Tax reimbursement liabilities on the cost price of supplies and repair parts permanently affixed to realty.

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I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel

MAJ:msk

Enc.